

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2557

IN THE MATTER OF:

Served May 22, 1984

Application of EUGENE H. GEORGE T/A)
SILVER STAR SIGHTSEEING TOURS for)
a Certificate of Public Convenience)
and Necessity to Conduct Special)
Operations -- Sightseeing)

Case No. AP-84-04

By application filed January 31, 1984, Eugene H. George, a sole proprietor trading as Silver Star Sightseeing Tours, seeks a certificate of public convenience and necessity to transport passengers and their baggage in irregular-route special operations, conducting round-trip, per-capita sightseeing tours between points in the Metropolitan District. 1/

Pursuant to Order No. 2526, served February 6, 1984, and incorporated by reference herein, a public hearing on the application was held on March 22, 1984. No party appeared in opposition.

Eugene H. George appeared at the hearing and testified in his own behalf. He stated that he had previously been employed by the late John Gooch, who originally operated Silver Star Sightseeing Tours. When Mr. Gooch died in November 1983, the motel operators who had become familiar with Mr. George asked him to continue operating the Silver Star service. Mr. George was thus led to take over Silver Star as an existing business.

While working for Mr. Gooch in the summer of 1983, Mr. George was contacted by the Commission's staff and advised that the sightseeing service being conducted required appropriate operating authority. Mr. George admitted no such authority existed, and a formal investigation by the Commission ensued. Subsequently, Mr. George voluntarily consented to cease and desist from conducting illegal operations, as reflected in Order No. 2496, served November 15, 1983.

Thus, at the time Mr. George took over Mr. Gooch's going business in November 1983, he had agreed not to operate without

1/ To the extent this application could be construed to seek authority to transport passengers solely within the Commonwealth of Virginia, the same was dismissed pursuant to the Compact, Title II, Article XII, Section 1(b), by Order No. 2526, served February 6, 1984.

appropriate authority, and he did in fact refrain from such operations. Instead, he applied for temporary operating authority, which was granted by Order No. 2534, served February 29, 1984. The scope of the temporary authority granted was to conduct a sightseeing tour service from five named motels located in Virginia to points in the District of Columbia and Arlington County, Va., and return. 2/ Mr. George testified that, during the off-season period from February 29, 1984, until the date of the hearing, he conducted two or three tours pursuant to his temporary authority.

The proposed service involves round-trip sightseeing excursions that last five to five and one-half hours. All passengers make sightseeing reservations at the motels named below. The passengers are picked up at the motels, taken on a tour that stops at four points of interest in the District of Columbia and passes other points of interest in the District of Columbia and Arlington County, Va., and then the passengers are returned to their motels.

The tour costs \$20 per person. Children under ten years of age accompanied by an adult are charged \$10. There is a four-passenger minimum per tour in the tariff proposed by the applicant.

Mr. George proposes to conduct the service in two vehicles he presently owns; namely, an 11-passenger van and an eight-passenger limousine. Maintenance of these vehicles is performed by local service centers as needs may require, and the choice of a particular service center depends on where the best price for service can be obtained.

Mr. George presented evidence of his present and prospective financial condition in the form of a balance sheet and a statement of projected revenues. The balance sheet for the period ended December 11, 1983, shows proprietor equity in excess of \$88,000, consisting primarily of Mr. George's personal residence. Mr. George testified that the balance sheet does not reflect a loan he received during early 1984 in the amount of \$3,000, secured by his van. The van and limousine are valued on the balance sheet at \$12,000, with no indication of any depreciation.

Mr. George's statement of projected revenues shows anticipated operating income of approximately \$22,000, operating expenses of \$9,597, and net income after taxes of \$11,715. Mr. George testified that this projection was for one year of operation and was based on his experience as an employee of Mr. Gooch. The anticipated operating expenses show no allowance for driver's wages, since Mr. George plans to do all driving himself. However, Mr. George testified he would hire

2/ The motels were those which are named in our grant of authority, infra, with the exception of the Econo Travel motel at 3335 Lee Highway, Arlington, Va.

a driver if business conditions were such as to warrant having both of his vehicles in operation at the same time. Mr. George testified that demand for the sightseeing service he provides is seasonal. During the peak season from April through September, volume averages 40 to 50 passengers per week. During the off-season, volume is much lower.

On cross-examination by the Commission's staff, Mr. George disclaimed any intention to extend his tour service to encompass points in Maryland and said he had no requests to serve points in Maryland as part of his tour. He further stated that a grant of authority from six specific motels 3/ to points in the District of Columbia and Arlington County Va., and return, would be sufficient to meet the needs of the business that he conducts.

John E. Taylor appeared at the hearing in support of the application and testified on behalf of the Quality Inn-Governor motel, located at 6650 Arlington Boulevard, Falls Church, Va. (a point actually located in Fairfax County, Va.). In his capacity as part owner of the motel, Mr. Taylor testified that he has observed motel guests who have returned after taking Mr. George's tour and that the guests have appeared well satisfied with it. He has observed motel patrons utilizing the service on a daily basis during the peak season, and he expects his guests to continue using the service at the same frequency in the event this application is granted. Mr. Taylor testified that he would expect Mr. George to provide service to groups of less than four motel guests, and that he knew of no occasions on which service to groups of less than four had been refused. He further testified that Gray Line used to provide a similar service, but that such service is no longer being provided and that Mr. George's service is the only one now known to him. Finally, Mr. Taylor testified that the continued availability of Mr. George's service would benefit his motel.

Douglass R. Ferguson also appeared in support of the application and testified on behalf of the Quality Inn-Governor motel, of which he is manager. He also offered testimony on behalf of the Econo Travel motel at 3335 Lee Highway, Arlington, Va.; the Econo Lodge motel at 421 West Broad Street, Falls Church, Va.; the Stratford Motor Lodge at 300 West Broad Street, Falls Church, Va.; and the Travel Lodge Seven Corners at 6111 Arlington Boulevard, Falls Church, Va. The basis of his testimony for these motels was conversations he had with their respective managers, who had authorized him to speak on their behalf. Mr. Ferguson testified that guests at his motel frequently request advice about sightseeing in Washington, D.C., and that the Silver Star service offered by Mr. George is routinely recommended. He stated that he has never heard guests complain about the service, whereas other services which had been available in the past did draw complaints. He

3/ These are the motels identified in our grant of authority, infra.

further testified that many guests of his motel remembered the Silver Star service from previous visits, and stated his belief that, if the service were not available, many bookings of guests at his hotel would be lost. Mr. Ferguson also stated that the other motels for which he was testifying are in the same situation regarding sightseeing as is the Quality Inn-Governor.

William Tippins testified in support of the application on behalf of Best Western Falls Church Inn, 6633 Arlington Boulevard, Falls Church, Va., of which he is the manager. In the course of discharging his official duties, he has occasion to discuss sightseeing arrangements with his motel's guests. He has recommended the Silver Star service to his guests, and those who have taken the tour have had no complaints. Approximately 10 to 20 guests use the service each week during the peak season, compared to two or three per month during the off-season. Mr. Tippins testified that many bookings of his motel would be lost if a tour service such as Silver Star were not available. He also indicated that in the past a similar service had been offered by National Capitol Tours, involving some unspecified "negative experiences," but that the service of National Capitol Tours is no longer available.

The Compact, Title II, Article XII, Section 4(b) provides that a certificate of public convenience and necessity shall be issued by the Commission if it finds ". . . that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of the Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity; otherwise, such application shall be denied."

The phrase "required by the public convenience and necessity" means that a transportation service will serve a useful purpose and be responsive to a genuine public demand or need. We find that the applicant's proposal meets this standard only to the extent it involves the transportation of passengers, and their baggage in the same vehicle with the passengers, in special operations limited to sightseeing, from the motels on whose behalf testimony was presented to points in the District of Columbia and Arlington County, Va., and return, restricted to vehicles with a manufacturer's designed maximum seating capacity of 15 passengers including the driver.

That the continuation of Silver Star Sightseeing Tours will serve a useful purpose is clearly demonstrated by the testimony that at least two of the motels supporting the application would tend to lose business if the service were unavailable. Further, the lack of any opposition to the application, the testimony that other similar services are no longer available, and the testimony concerning past use of this service all are factors that show the existence of a genuine need for the service.

There is, however, no evidence that the service has ever involved the origination of passengers at points other than the motels from which supporting testimony was adduced. Significantly, the applicant testified that referrals from these motels are the exclusive means by which passengers are acquired. Thus, there is no suggestion that the need for service evinced by these motels is representative of the needs of a broad geographical territory.

Similarly, the applicant stated emphatically that he has no intention to conduct tours involving points in Maryland. There is no evidence of a need to tour points in Virginia other than those in Arlington County. Moreover, the applicant stated that a grant of authority from the six motels involved here to points in the District of Columbia and Arlington County would be sufficient to allow him to conduct the proposed service. Accordingly, a grant of authority broader than that which we shall order herein is not justified.

The restriction to vehicles seating 15 passengers or less is consistent with the applicant's anticipated volume of passengers, his financial resources, and the nature of the equipment he proposes to operate. An average volume of 40 to 50 passengers per week during the peak season would not support the operation of larger vehicles. Nor could the applicant afford to acquire larger vehicles, although he has ample resources to maintain his present fleet and to replace the vehicles he now operates with others of the same or similar classification. The applicant does not now operate vehicles seating more than 15 persons, and there is no indication that Silver Star Sightseeing Tours ever used such vehicles when it was run by John Gooch.

As for the matter of the applicant's fitness, we are satisfied that the applicant is fit, willing and able, financially and otherwise, to provide the proposed service. The applicant has more than \$70,000 equity in his home to help sustain his business; that is more than sufficient to finance the hiring of an extra driver or undertake other obligations as the needs of the business may require. Likewise, the fact that the applicant voluntarily consented to cease and desist from operating illegally after he was investigated by the Commission is evidence of his willingness to abide by the Commission's regulations.

THEREFORE, IT IS ORDERED:

1. That the application of Eugene H. George, trading as Silver Star Sightseeing Tours, is hereby granted as follows: to transport passengers, and their baggage in the same vehicle with the passengers, in special operations limited to round-trip sightseeing operations, from Econo Travel motel, 3335 Lee Highway, Arlington, Va.; Quality Inn-Governor motel, 6650 Arlington Boulevard, Fairfax County, Va.; Econo Lodge motel, 421 West Broad Street, Falls Church, Va.; Stratford Motor Lodge, 300 West Broad Street, Falls Church, Va.; Travel Lodge

Seven Corners motel, 6111 Arlington Boulevard, Fairfax County, Va.; and Best Western Falls Church Inn, 6633 Arlington Boulevard, Fairfax County, Va.; to points in the District of Columbia and Arlington County, Va., and return, restricted to transportation in vehicles with a manufacturer's maximum designed seating capacity of 15 passengers or less (including the driver).

2. That Eugene H. George, trading as Silver Star Sightseeing Tours, is hereby directed to file (a) two copies of its WMATC Tariff No. 1 as required by Commission Regulation No. 55, and (b) an affidavit of compliance with Commission Regulation No. 68 governing identification of motor vehicles, for which purpose WMATC No. 108 is hereby assigned.

3. That upon timely compliance by Eugene H. George, trading as Silver Star Sightseeing Tours, with the directives set forth in paragraph 2 above, an appropriate Certificate of Public Convenience and Necessity No. 108 will be issued.

4. That unless compliance with the provisions of the preceding paragraph is effected within 30 days from the date of service hereof or such additional time as the Commission may authorize, the grant of authority made herein shall be void and the application shall stand denied in its entirety effective upon expiration of the said compliance time.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director